

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

PROMEGA CORPORATION, ET AL.

Plaintiff,

vs.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC., AND
APPLIED BIOSYSTEMS, INC.,

Defendants.

Civil Action No. 10-CV-281

DEFENDANTS' PROFFER OF EXCLUDED WITNESS TESTIMONY

Defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc., and Applied Biosystems, Inc. (collectively, "Life"), submit the following Proffer of Excluded Witness Trial Testimony.

Proffer of Expert Testimony of Guido Sandulli:

If not precluded from testifying as an expert witness on the topic of Life's customers and their uses of STR kits by the Court's Order in the seventh day of jury trial, February 14, 2012, Mr. Guido Sandulli would have offered specific testimony as to approximately 1,900 customers in Life's customer list. Based upon that testimony, he would have concluded that 95.5-96% of Life's customers from 2006 through 2011 engaged in forensic or paternity uses of STR kits.

If not precluded from testifying by the Court's February 1, 2012 Opinion and Order (Dkt. # 486), Life employees Phillip Habermeier, Roberto Castlenovo, Orion Ng, Rebecca Clifton and Carla Abdo would have testified as follows:

Proffer of Testimony of Phillip Habermeier

Q: What is your name?

A: Phillip Habermeier.

Q: Where do you live?

A: Darmstadt, Germany.

Q: Where are you employed?

A: Life Technologies.

Q: What is your position?

A: Sales representative, HID Central Region, for Austria, Switzerland and Southern Germany.

Q: Who do you report to?

A: Roberto Castlenovo.

Q: Do you visit customers?

A: Yes.

Q: How often?

A: Key accounts are visited one to two times per quarter, I also have weekly customer visits.

Q: Is there any other way you interact with customers?

A: Yes, by telephone and email on a daily basis.

Q: Do you review sales data for STR kits?

A: Yes, almost daily.

Q: Do you have access for sales data for all sales of STR kits in your region?

A: Yes, through HID reports or internal reporter system.

Q: How many customers do you have?

A: More than one hundred.

Q: Who are the most significant?

A: The Institute of Legal Medicine in Zurich and the other Swiss Institutes of Legal Medicine and the Institute of Legal Medicine in Innsbruck.

Q: Do you have any nonforensic or nonpaternity customers?

A: Yes, smaller departments within the big universities in Switzerland, German Red Cross.

Q: What do they with STR kits?

A: Cell line, chimerism testing, other unknown.

Q: Can you identify the percentage of nonforensic and nonpaternity sales in your region?

A: Less than 5%.

Proffer of Testimony of Rebecca Clifton

Q: What is your name?

A: Rebecca Clifton.

Q: Where do you live?

A: Victoria, Australia.

Q: What is your educational background?

A: I have a general science degree from Monash University and a Ph.D. in fertility.

Q: Where are you employed?

A: Applied Biosystems.

Q: What is your position?

A: Sales/Business Manager for HID and Pharmaceutical Analytics.

Q: How long have you been with Life?

A: Since 2003, when I started in general sales.

Q: What regions are you responsible for?

A: Australasia, which includes Australia, New Zealand, Fiji, Papua New Guinea and New Calidonia.

Q: Do you visit customers?

A: Yes.

Q: How often?

A: Once per quarter for the top ten customers, others maybe once or twice a year.

Q: Is there any other way you interact with customers?

A: Yes, by phone, email, workshops, conferences and user meetings.

Q: Do you review sales data for STR kits?

A: Yes.

Q: Do you have access for sales data for all sales of STR kits in your region?

A: Yes.

Q: How many customers do you have?

A: I have about twenty-eight accounts, and am directly responsible for twenty-three of those accounts.

Q: Who are the most significant?

A: The Institute of Environmental Science and Research, Queensland Health, Pathwest, Sydney West Area Health, Victoria Police, Forensic Science South Australia, Genetic Technologies, Australian Federal Police, Forensic Science Services Tasmania and Symbion.

Q: Do you have any nonforensic or nonpaternity customers?

A: Yes, Westmead, Sydney West Area Health, Royal Brisbane hospital.

Q: What do they with STR kits?

A: Chimeria testing, tissue banking and clinical.

Q: Can you identify the percentage of infringing nonforensic, nonpaternity sales in your region?

A: Three to four percent.

Proffer of Testimony of Orion Ng:

Q: What is your name?

A: Orion Ng.

Q: Where do you live?

A: Singapore.

Q: Where are you employed?

A: Life Technologies.

Q: What is your position?

A: Lead for India-Pacific HID Business Development.

Q: Do you interact with sales representatives in your region?

A: Yes.

Q: How often?

A: At least once per quarter, mostly at least once per month.

Q: Do you visit customers?

A: Yes, to generate new business.

Q: How often?

A: Once a month at a minimum.

Q: Is there any other way you interact with customers?

A: Yes, via emails, phone calls, and meetings.

Q: Do you review sales data for STR kits?

A: Yes.

Q: Do you have access for sales data for all sales of STR kits in your region?

A: Yes.

Q: How many customers do you have?

A: Four major customers.

Q: Who are the most significant?

A: Singapore Health Science Authority, and distributors in Thailand, Malaysia, and Vietnam.

Q: Do you have any nonforensic or nonpaternity customers?

A: No.

Q: Can you identify the percentage of non-forensic and non-paternity sales in your region?

A: 100%.

Proffer of Testimony of Roberto Castelnovo:

Q: What is your name?

A: Roberto Castelnovo.

Q: Where do you live?

A: Milan, Italy.

Q: Where are you employed?

A: Life Technologies Corporation.

Q: What is your position?

A: I am the sales manager for HID products in Western Europe, and I have been in that role since 2008.

Q: How long have you been with Life?

A: I have been with Life Technologies, or one of its predecessors, for many years.

Q: Does anyone report to you?

A. Yes, I have 6 sales representatives and 1 marketing person that report directly to me. I also current have 1 open position that will be filed by a sales representative.

Q: Do you visit customers, and if so, how often?

A. Because I am responsible for all sales activities of HID kits, including STR kits, in Western Europe, I physically meet with customers weekly to discuss their business and needs. I also meet with my six direct report sales representatives weekly to discuss customer information, business, sales, and marketing.

Q: Is there any other way you interact with customers?

A I communicate with my customers almost daily by telephone and email. Likewise, I communicate with my sales representatives daily by telephone and email. Based on these personal interactions, I have learned what my customers are doing.

Q: Do you review sales data for STR kits?

A. I review sales data all the time, at least daily.

Q: Do you have access for sales data for all sales of STR kits in your region?

A. Yes.

Q: How many customers do you have?

A. I have about 20 significant customers in my region and about 200 total.

Q: Who are the most significant?

A. The following customers use Life Technologies' STR kits for forensic casework and databasing and paternity testing: (1) Norway, University of Oslo; (2) Denmark, University of Copenhagen, SKL, KRP; (3) France, Police and Gendarmerie; (4) Spain – Police, Guardia Civil; (4) Portugal, Legal Medicine, Police; (5) Italy, Police and Carabinieri; (6) Switzerland, University of Geneva, Lausanne, Zurich, Bern, Basel; (7) Austria, University of Innsbruck; (8) Germany, LKA, Legal Medicines; (9) Belguim, Luxembourg, and the Netherlands, INCC, NFI; and (10) United Kingdom and Ireland, LGC, Orchid, SPSA, Northern Ireland Police, Irish Police.

Q: Do you have any nonforensic or nonpaternity customers?

A. Yes. My non-forensic customers are small purchasers of STR kits. They are mainly hospitals using STR kits for small amounts of research or cell line work. They just do not buy that many STR kits.

Q: What do they with STR kits?

A. Yes. My non-forensic customers are small purchasers of STR kits. They are mainly hospitals using STR kits for small amounts of research or cell line work. They just do not buy that many STR kits.

Q: Can you identify the percentage of non-forensic or nonpaternity sales in your region?

A. The total STR kit revenue from my area, Western Europe, is approximately \$40 million, and about 94-96% of that comes from our forensic and paternity customers. The remaining 4-6% comes from non-forensic and nonpaternity customers doing chimerism or cell line work.

DATED: February 14, 2012.

/s/ Kristine E. Johnson
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